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 Environmental Crimes Section  
 U.S. Department of Justice

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD ESTES,

Defendant.

15-CR-6048-SMJ-1

United States' Notice of Review  
 of Presentence Investigation  
 Report and Sentencing  
 Memorandum

Plaintiff, the United States of America, by and through Michael C. Ormsby,  
 United States Attorney for the Eastern District of Washington, Scott T. Jones,  
 Assistant United States Attorney for the Eastern District of Washington, Karla  
 Perrin, Special Assistant United States Attorney for the Eastern District of  
 Washington, and Thomas Franzinger, Department of Justice Trial Attorney,

1 submits the following Notice of Review of Presentence Investigation Report  
2 (hereinafter PSR) and Sentencing Memorandum.

### 3 **INTRODUCTION**

4 The Defendant pled guilty to the sole count of the Information, charging him  
5 with conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h).  
6 Sentencing is scheduled for November 18, 2016.

7 The United States has reviewed the PSR and has determined, based upon  
8 information that is presently available, that the PSR is factually complete and  
9 accurate.

### 10 **OFFENSE CONDUCT**

11 Because the PSR describes the offense conduct in detail, the Government  
12 does not include a full recitation of the facts here. It is important to note, however,  
13 that the Defendant was a necessary member of a conspiracy that defrauded the  
14 Government and others of tens of millions of dollars. He personally made tens of  
15 thousands of dollars from the scheme – money stolen from the taxpayers and other  
16 innocent parties. He acted purely out of greed, choosing to participate in the  
17 scheme because he was “promised bags full of money.” (PSR at paragraph 126).  
18 He tried to conceal his crime, forging emails to an auditor and taking a hammer to  
19 computer hard drives used to commit the offense, (PSR at paragraphs 121 and  
20 123), and later lying to investigators.

### 21 **PERSONAL CHARACTERISTICS**

22 The PSR details the Defendant’s personal characteristics, based almost  
23 entirely on the Defendant’s statements. But for the included medical records, the  
24 Court should believe none of it. One entire subsection is a lie. The Defendant, in a  
25 clear attempt to present a more sympathetic image to the Court than reality  
26 supports, told the Probation Officer that he served on active duty in the Air Force  
27 from 1957 to 1968, flying fighter/bombers and fighters during overseas  
28

1 deployments to the Philippines and “Southeast Asia” before being discharged as a  
 2 Captain. (PSR at paragraph 228). Though the PSR does not say that the Defendant  
 3 explicitly claimed to be a combat veteran, his claim of serving in Southeast Asia at  
 4 the height of the Vietnam war was clearly intended to do just that. The reality is far  
 5 less honorable. After signing a six-year enlistment with the Air National Guard, the  
 6 Defendant applied for an early discharge after serving only one year, four months,  
 7 and fifteen days of weekend duty as a clerk. (Attachment 1 at pages 3-9). He was  
 8 discharged as an Airman Third Class, and did not receive a DD-214, the standard  
 9 discharge document, because he “had no active service or less than 90 consecutive  
 10 days of active duty for training.” (Attachment 1 at page 1).

11  
 12 The Defendant’s lies to the Probation Officer, and therefore the Court, were  
 13 only the latest example of his character and penchant for falsehoods. He is a forger.  
 14 (PSR at paragraph 190). In an attempt to exculpate himself and obstruct the  
 15 investigation, he met with investigating agents and, over the course of several  
 16 hours, repeatedly denied knowing the operations of Gen-X and the companies that  
 17 he personally operated were fraudulent. The Court should assign no credibility to  
 18 anything he has said or to any allocution he provides at sentencing.

#### 19 **A. USSG Calculations**

20 The United States recommends the following USSG calculations and  
 21 sentence:

- 22 • The base offense level should be 8, see USSG §2S1.1(a)(2). (8)
- 23 • The total loss amount was more than \$25,000,000, see USSG  
 24 §2B1.1(b)(1)(L). (+22)
- 25 • The Defendant convicted under 18 U.S.C. § 1956, see USSG  
 26 §2S1.1(b)(2)(B). (+2)
- 27 • The scheme involved sophisticated laundering, see USSG  
 28 §2S1.1(b)(3). (+2)

- The Defendant obstructed justice, see USSG §3C1.1. (+2)
- The Defendant accepted responsibility, see USSG § 3E1.1(a). (-3)
- Total adjusted offense level: 33

Defendant has 4 criminal history points, establishing a criminal history category of III. Based upon Defendant's total adjusted offense level of 33 and a criminal history category of III, Defendant's sentencing guideline range is 168-210 months.

### B. Government’s Sentencing Recommendation

## 1. Custody and Supervised Release

Pursuant to the plea agreement, the United States recommends a sentence of 120 months in custody, no fine, a three (3)-year term of supervised release.

## 2. Special Penalty Assessment

A special penalty assessment of \$100 is required.

### 3. Forfeiture and Restitution

The Government recommends that the Defendant be required to pay restitution of \$4,360,724.50 to the U.S. Treasury and no less than \$42,000,000 to any purchasers of fraudulent RINs created by the conspiracy. Finally, the Government recommends the Court enter a forfeiture money judgment in the

1 amount of \$1,000,000, with any recovered amount to be deducted from the  
2 Defendant's restitutionary obligations.

3  
4 DATED October 28, 2016.

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6 Michael C. Ormsby  
7 United States Attorney

8 s/Scott T. Jones  
9 Scott T. Jones  
10 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2016, I electronically filed the foregoing  
with the Clerk of the Court using the CM/ECF system.

s/Scott T. Jones  
Scott T. Jones  
Assistant United States Attorney